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Resolution Relating to

RESOLUTION
Sponsor(s): Councilors Blais,
Ayres: License Com.
Introduced: _____
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

AUTHORIZATION TO ENTER INTO LICENSE AGREEMENT
TO ERECT AND MAINTAIN AN ACCESS RAMP ON A PORTION
OF THE CITY’S RIGHT-OF-WAY WITH POMERLEAU FAMILY, LLC

CITY OF BURLINGTON

In the year Two Thousand Thirteen.....
Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, POMERLEAU FAMILY, LLC of Burlington, Vermont (hereinafter
POMERLEAU) owns a commercial building located at 190-192 College Street in the City of
Burlington, Vermont; and
WHEREAS, POMERLEAU desires to extend the current access ramp on the front of the
building that services 192 College Street to also service 190 College Street on a portion of the
public right-of-way; and
WHEREAS, POMERLEAU wishes to enter into a License Agreement with the City for
such access ramp; and
WHEREAS, the placement of the access ramp has been reviewed and approved by the
Department of Public Works with conditions to address public safety concerns; and
WHEREAS, the Charter of the City of Burlington, Sec. 48XLIX and the Code of
Ordinances Sec. 27-32 require authorization by the City Council for such use of a public
thoroughfare for periods in excess of thirty (30) days;
NOW, THEREFORE, BE IT RESOLVED that this City Council hereby authorizes
POMERLEAU to extend the current access ramp to cover an area of 72 sq. ft. on a portion of the
public right-of-way in front of its building located at 190-192 College Street as indicated in and
pursuant to its License Agreement upon entering into the License Agreement in substantially the
form attached hereto; and
BE IT FURTHER RESOLVED that Mayor Weinberger be and hereby is authorized to
execute a License Agreement, in substantially the form attached, on behalf of the City of
Burlington for a term commencing on the date of execution of the License Agreement and
terminating on April 30, 2014.

LICENSE AGREEMENT FOR ACCESS RAMP
WITH POMERLEAU FAMILY, LLC
2013 -2014 SEASON

This LICENSE AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and validly existing under the laws of the State of Vermont (hereinafter CITY) and POMERLEAU FAMILY, LLC a business located in Burlington, Vermont which owns property located 190-192 College Street (hereinafter POMERLEAU or LICENSEE).

WHEREAS, the CITY owns property, including the street and sidewalk right-of-way adjacent to 190-192 College Street; and

WHEREAS, POMERLEAU stated on its application (attached hereto as Exhibit A) that it wishes to extend the current access ramp on the front of the building that services 192 College Street to also service 190 College Street and this 72 sq. ft. ramp extension will rest in the public right-of-way directly in front of 190 College Street; and

WHEREAS, this application was reviewed and approved by the Department of Public Works attached hereto as Exhibit B; and

WHEREAS, such use of a public thoroughfare for periods in excess of 30 days requires approval of the City Council under Charter Sec. 48XLIX and Burlington Code of Ordinances Chap. 27, Sec. 27-32;

W I T N E S S E T H :

The CITY and POMERLEAU enter into the following License Agreement:

1. TERM

The CITY grants to POMERLEAU (hereinafter LICENSEE) a license to install and maintain an extension to the existing access ramp on the front of the building which rests in the public right-of-way directly in front of 190 College Street covering a 72 sq. ft. area as indicated above commencing as of the date of execution of this Agreement and terminating on

April 30, 2014 or sooner as provided herein.

2. LOCATION

LICENSEE may use and maintain the access ramp on the public right-of-way (hereinafter referred to as the premises) for accessibility purposes. The ramp must be exactly as described and placed as approved by the Department of Public Works. A copy of the approved plan is attached hereto as Exhibit C.

3. MAINTENANCE

- a. LICENSEE shall maintain the ramp in proper condition.
- b. LICENSEE shall be responsible for the maintenance and upkeep of the ramp and any damage to the ramp is solely the responsibility of LICENSEE. Should LICENSEE fail to maintain the ramp, this License Agreement is revocable on notice by the CITY to LICENSEE of a violation of this section; however LICENSEE shall have 14 days to cure any problem if it notifies the CITY in writing within three (3) days of its intent to cure the violation.
- c. The ramp shall be placed in accordance with all conditions set by the Department of Public Works and shall not impede the CITY'S ability to maintain the road, sidewalk, or greenbelt, if any.
- d. The ramp shall not cause inconvenience to members of the public using the sidewalk, parking meters or street.
- e. LICENSEE shall pick up and sweep debris created by its use of the public right-of-way and remove snow and ice from the ramp within 12 hours after snow ceases to fall.

4. LICENSE FEE

POMERLEAU shall pay the Encumbrance Application fee for this agreement.

5. REVOCATION

This License Agreement is immediately revocable should LICENSEE discontinue use of the ramp. In any event, this Agreement is revocable by the CITY within 30 days upon sending written notice to LICENSEE. Upon revocation, LICENSEE must remove at its own expense the ramp and other materials or obstructions placed on the property. If LICENSEE refuses to promptly remove such obstructions, they may be removed by the CITY and LICENSEE shall be liable for all expenses of such removal.

6. INSURANCE

a. LICENSEE shall maintain in effect throughout the term of this Agreement comprehensive public liability insurance with an A rated insurance carrier, or better, qualified to transact business in the State of Vermont, insuring against all legal liability for injuries or damages suffered as a result of the exercise of rights granted pursuant to this Agreement in an amount not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate. The CITY shall be named as an additional insured on such insurance policy.

b. Prior to execution of this Agreement, LICENSEE shall furnish the CITY with a certificate of insurance and endorsement which shall include the provision that the CITY is named as an additional insured and shall be given 15 days written notification prior to any cancellation of such insurance for nonpayment of premium and 45 days notice for any other reason.. The certificate shall be attached to this Agreement as Exhibit D and the endorsement as Exhibit E.

c. The certificate of insurance shall be provided annually on or before its stated expiration. It is the responsibility of LICENSEE to ensure that a current certificate of

insurance and endorsement are on file with the CITY at all times. **Failure to furnish a current certificate of insurance and endorsement shall result in immediate revocation of this license.**

7. INDEMNIFICATION

LICENSEE agrees to indemnify, defend and hold the CITY harmless and free from liability arising out of LICENSEE'S use of the CITY'S right-of-way, and LICENSEE agrees to make no claim against the CITY or any of its officers, employees, agents or representatives for any loss or damage caused by the CITY'S use or maintenance of its right-of-way.

8. PERMITS

LICENSEE shall be responsible for obtaining all necessary CITY and/or State permits including zoning permits, if required.

9. NUISANCES PROHIBITED

LICENSEE shall not, during the term hereof, on or in the premises maintain, commit, or permit the maintenance or commission of any nuisance or violation of any applicable City of Burlington ordinance, State or Federal statute, or controlling bylaw, regulation, or condition imposed whether existing at the time of commencement of this Agreement or enacted, amended, or otherwise put into effect during the term of this Agreement.

10. ASSIGNMENT OF RIGHTS

LICENSEE shall not sell or assign its rights pursuant to this Agreement or permit the use of the premises or any part thereof by any other entity without the express prior written consent of the CITY. Any unauthorized action in violation of this provision shall be void, and shall terminate LICENSEE'S rights pursuant to this Agreement.

11. LIMITATION OF RIGHTS

LICENSEE acknowledges that no property or other right is created other than that specifically defined and limited by this Agreement.

DATED at Burlington, Vermont this _____ day of _____,
2013.

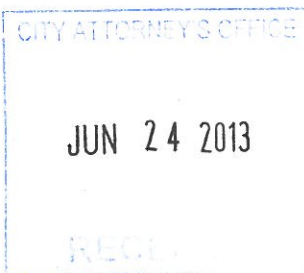
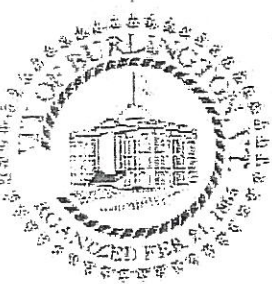
CITY OF BURLINGTON

Witness By: _____
Miro Weinberger, Mayor
Duly Authorized

POMERLEAU FAMILY, LLC

Witness By: _____
Duly Authorized

lb/c: GM 2013/License Agree for Encumbrance –ORANGE LEAF, POMERLEAU. 190 College St. (Access Ramp) 2013
7/3/13



OFFICE OF THE CLERK AND TREASURER
149 CHURCH STREET
BURLINGTON, VT 05401
Voice (802)865-7000
FAX (802)865-7014
TTY (802)865-7142
Amy Bovee (802)865-7019
Ron Gore (802)865-7562

Encumbrance Application / Renewal

Owner
DBA NAME: Pomerleau Family LLC DATE: 6/6/2013
CONTACT NAME: Steve Ploesser PHONE: (802) 863-8210
MAILING ADDRESS: 69 College st FAX: (802) 863-8219
Burlington, VT 05401 EMAIL: sploesser@vermontrealestate.com

DBA NAME: Orange Leaf Yogurt
COMPANY: OLVT LLC
LOCATION OF ENCUMBRANCE: 190/192 College st Burlington, VT 05401

Permission is requested to allow/continue the encumbrance in the following area and manner (please describe fully, including size and physical barriers around area i.e. trees, grates, parking meters, etc v photos, diagrams, blueprints; may reference prior application):

Description: We propose to Extend the current ADA ramp that services 192 Coll. st Law offices to also services 190 coll. st.
The location for the new Orange Leaf Yogurt space witch is part of the same building frontage.
see blue print Attached for dimensions. with proper hand rails will be installed.
We are amending the Application on 6/6/2013 to be in Building owners Name
(Pomerleau Family LLC.) fees were paid by Orange Leaf on 4/26/2013

Total Square Feet (\$1.00 per SF): \$72

PLEASE ATTACH:

1. Certificate of Liability Insurance with holder as the: "CITY OF BURLINGTON, CLERK/TREASURER'S OFFICE ENCUMBRANCE APPLICATION DEPT., 149 CHURCH ST., BURLINGTON, VT 05401"
2. Endorsement to Insurance Policy outlining the Cancellation Policy
3. Endorsement to Insurance Policy listing the City as Additional Insured
4. Sketch, Photo, or Blueprint of what you are proposing.
5. Check for the square feet fees (\$1 per square foot) + \$25 Application fee: \$97

Signature: [Signature] Date: 6-6-2013

For office use only: Amount received \$ \$97 on 4/26/2013 Check # 1045
Sent to DPW: 4/26/2013 Sent to Attorney: 6/24

Exhibit A



OFFICE OF THE CLERK AND TREASURER
149 CHURCH STREET
BURLINGTON, VT 05401
Voice (802)865-7000
FAX (802)865-7014
TTY (802)865-7142
Amy Bovee (802)865-7019
Ron Gore (802)865-7562

Encumbrance DPW Approval Form

Effective 05/01/2013 - 04/30/2014

ATTENTION: RON GORE, BURLINGTON DEPARTMENT OF PUBLIC WORKS

DBA NAME: POMERLEAU FAMILY LLC DATE: Tuesday, June 11, 2013
COMPANY: POMERLEAU FAMILY LLC PHONE:
LOCATION: 190-192 COLLEGE ST. FAX:
MAILING ADDRESS: STEVE PLOESSNER
69 COLLEGE ST.
BURLINGTON, VT 05401

RACKS / RAMPS / STAIRS / TABLES / CHAIRS ETC

1. Racks, ramps, sidewalks encumbrances should be located on private property, if possible. In the opinion of the City Building Inspector, is there an available alternative location for the ramp on private property? Yes ☐ No ☒

2. Will there be sufficient width for plows and pedestrian access if racks, ramp, sidewalk, tables & chairs encumbrances are added on the sidewalk? Yes ☒ No ☐

3. Additional Comments: RAMP EXTENSION TO MEET ALL ADA -
HANDICAP REQUIREMENTS (SEE DRAWING)

4. A 72 square foot placement of EXTEND EXISTING ADA RAMP IN FRONT OF 190-192 COLLEGE
ST. at 190-192 COLLEGE ST.

DEPARTMENT OF PUBLIC WORKS

Approved? Yes ☒
 No ☐

Explain: _____

Signature Ron Gore

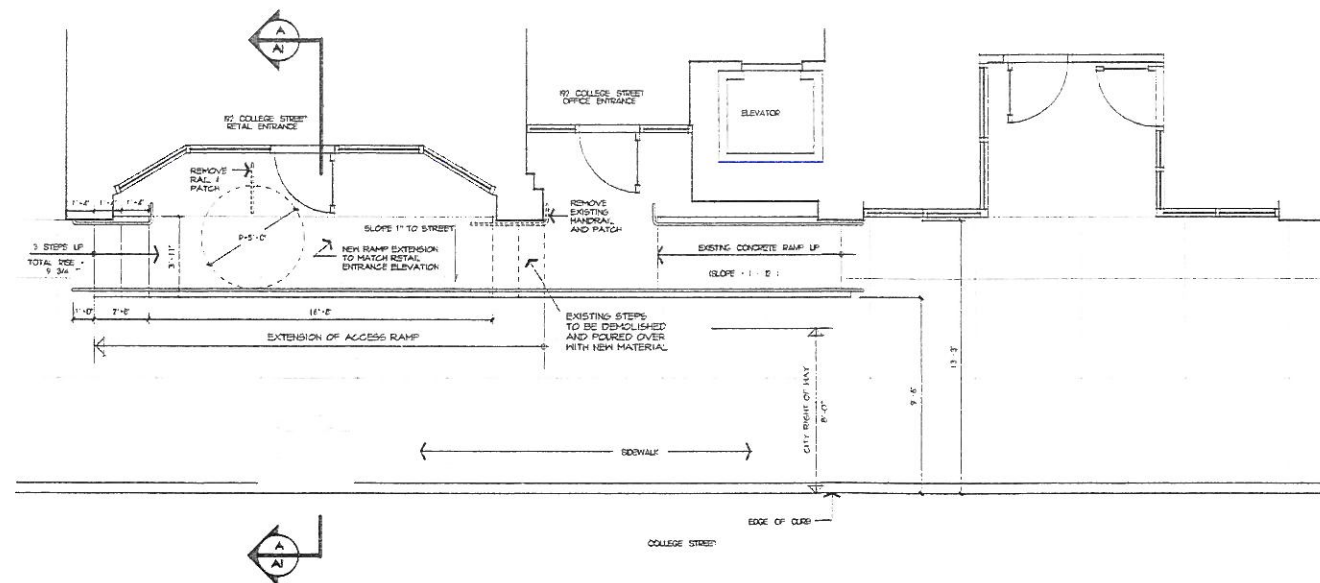
Date: 06-10-13

Exhibit B

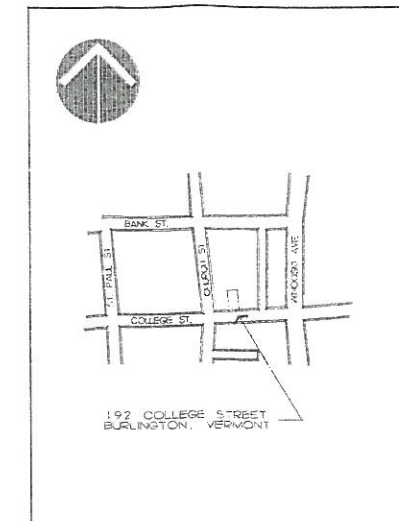


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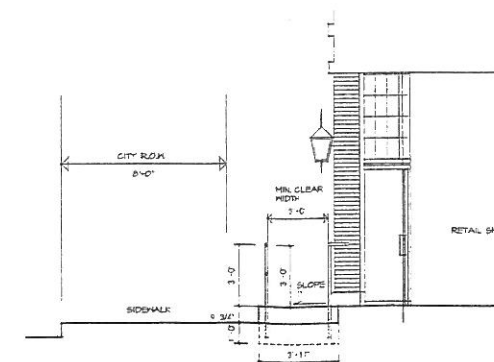
ELEVATION OF PROPOSED RAMP
SCALE: 1/4" = 1'-0"



2 PLAN OF PROPOSED RAMP UPDATE
A1 SCALE: 1/4" = 1'-0"



3 SITE LOCATION PLAN
A1



CROSS SECTION A-A
SCALE: 1/4" = 1'-0"

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x	-
x	x
x	x
x	-
x	-
REVISION:	I CATZ

PROJECT NAME

POMERLEAU
Real Estate

POMERLEAU BUILDING
ACCESSIBILITY RAMP ADDITION

102 COLLEGE STREET
EAST LANSINGTON, VERMONT

Wolfstein
PROFESSIONAL
109 Church Street
Burlington, Vermont 05401 USA
(802) 864-8334
www.vzstudio.com

GRAPH BY: EW
CHECKED BY:
SCALE: 1/4" = 1' - 0"
DATE: 6/5/13

DRAWING TITLE

**PLAN &
ELEVATION**

PROJECT
NUMBER

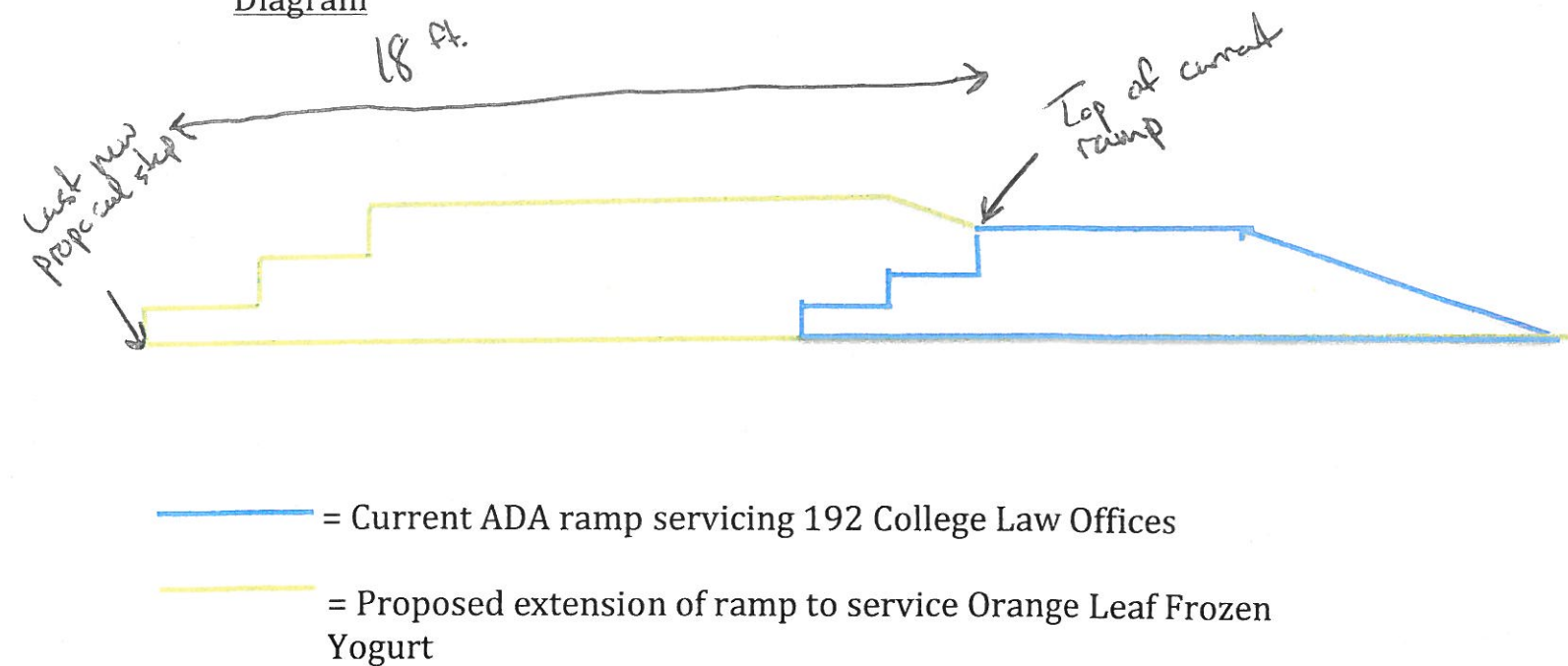
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Elevation Plan for ADA Ramp Extension Proposal:

Currently there is no ADA accessibility to the space located at 192 College Street that was previously "Tootsies" and will soon be "Orange Leaf" a frozen yogurt café. We (Orange Leaf Ownership) propose to add an extension onto the ADA ramp currently servicing the legal offices next to the Orange Leaf space, which will then make the space ADA compatible.

The current ramp serves the law offices next to the Orange Leaf location, and then has two small steps going back down to the sidewalk. To extend the ramp we would add a 2 foot 3 inch extension that would incline 1.75 inches and meet our storefronts current platform at 9 feet .75 inches. Once level with the platform, the ADA ramp would continue at a level grade and then have two 3.25 inch steps leading back down to the sidewalk. Ultimately, this would be an additional 18 feet of work, from the top of the current ramp (before the steps down) to the bottom of the last new proposed step.

Diagram



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/03/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER People's United Ins. Agency VT 100 Bank Street 4th Floor PO Box 485 Burlington, VT 05401	CONTACT NAME: Dinah Jacobsen	
	PHONE (A/C, No, Ext): 802 863-2841	FAX (A/C, No):
INSURED Pomerleau Family LLC 69 College Street P O Box 6 Burlington, VT 05402	E-MAIL ADDRESS: Dinah.Jacobsen@peoples.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Hanover Insurance Co	
	INSURER B :	
	INSURER C :	
	INSURER D :	
INSURER E :		
INSURER F :		
NAIC # 22292		

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR Blanket Addt Insured Per Written Contract GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	Y	ZBV9836590	01/01/2013	01/01/2014	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000		UHV9836481	01/01/2013	01/01/2014	EACH OCCURRENCE \$15,000,000 AGGREGATE \$15,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A				WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Re: Ramp in front of 190-192 College Street, Burlington, VT
City of Burlington is named as additional insured under general liability as required by written contract for work performed by insured subject to terms and conditions of the policy.

CERTIFICATE HOLDER City of Burlington Attn: Encumbrance Applications 149 Church Street Burlington, VT 05401	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Dinah Jacobsen
---	--

ISO | Interline Forms | 09/01/08

IL 02 19 09 08

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.VERMONT CHANGES – CANCELLATION
AND NONRENEWAL

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART
FARM UMBRELLA LIABILITY POLICY
LIQUOR LIABILITY COVERAGE PART
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. The Cancellation Common Policy Condition is replaced by the following:

CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.

2. Cancellation Of Policies In Effect For Less Than 60 Days.

If this policy has been in effect for less than 60 days and this policy is not a renewal of a policy we issued, we may cancel this policy by:

a. Giving the first Named Insured at least 15 days' notice prior to the cancellation date for nonpayment of premium or substantial increase in hazard; or

b. Mailing or delivering the first Named Insured at least 45 days' notice prior to the cancellation date for any other reason.

If cancellation is for nonpayment of premium, written notice may be sent by certificate of mailing or certified mail. If cancellation is for any reason other than nonpayment of premium, written notice

Exhibit E

6/11/2013 11:45 AM

notice at least 45 days before the:

- (1) Expiration of the policy; or
- (2) Anniversary date of this policy if this policy has been written for a term of more than one year.

b. This provision does not apply:

- (1) If we have indicated a willingness to renew;
- (2) In case of nonpayment of premium;
- (3) If you do not pay any advance premium required by us for renewal; or
- (4) If any property covered in this policy is insured under any other insurance policy.

2. RENEWAL

a. If we:

- (1) Elect to renew this policy; and
- (2) Have the necessary information to issue a renewal policy,

we will confirm in writing at least 45 days before it expires our intention to renew this policy; and the premium at which this policy will be renewed.

b. If we do not comply with the provisions of Paragraph a., you will have renewal coverage. The renewal coverage will be at the rates:

- (1) In effect under the expiring or expired policy; or
- (2) In effect on the expiration date, that have been approved by the Commissioner,

whichever are lower.

This renewal coverage will be on a pro rata basis and will continue for 45 days after we confirm renewal coverage and premium. If you accept this renewal policy, this Paragraph **b.** does not apply.

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©Insurance Services Office, Inc.
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POLICY NUMBER: EBN9886590

COMMERCIAL GENERAL LIABILITY
CG 20 12 07 98

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED -
STATE OR POLITICAL SUBDIVISIONS - PERMITS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

State Or Political Subdivision: City of Burlington 149 Church Street Burlington, VT 05401
--

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

Section II - Who Is An Insured is amended to include as an insured any state or political subdivision shown in the Schedule, subject to the following provisions:

1. This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

2. This insurance does not apply to:
- a. "Bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality, or
 - b. "Bodily injury" or "property damage" included within the "products-completed operations hazard".